

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 ACDA-05 SSO-00 NSCE-00 USIE-00 INRE-00

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PA-01 PRS-01 SP-02 SS-15 EB-07 /063 W

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O R 071153Z MAR 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 8527

USMISSION USBERLIN IMMEDIATE

INFO AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO BRUSSELS

USMISSION EC BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 03826

TAGS: PGOV, GW, EC

SUBJECT: EC VOCATIONAL CENTER

REF: A) USBER 413; B) ECBUSSELS 1782; C) BONN 3405

1. EMBASSY STUDY OF EC COUNCIL OF MINISTERS REGULATION
TRANSMITTED BY REFTEL B RAISES A NUMBER OF MATTERS WHICH
WE BELIEVE REQUIRE CAREFUL BUT EXPEDITIOUS HANDLING.
REGULATION IS, ACCORDING TO ITS ARTICLE 19, BINDING IN
ITS ENTIRETY AND DIRECTLY APPLICABLE IN ALL MEMBER
STATES. EMBASSY IS STRUCK BY SOME PROVISIONS OF EC

REGULATION (PUBLISHED IN EC OFFICIAL JOURNAL FEBRUARY 13
AND IN FORCE SINCE FEBRUARY 16), IN PARTICULAR PREAMBLE
PROVISION STATING THAT EC CENTER IS "A BODY INDEPENDENT
OF THE DEPARTMENTS OF THE COMMISSION," "WHEREAS" CLAUSE
THAT "THE TREATY HAS NOT PROVIDED THE SPECIFIC POWERS
NECESSARY FOR SETTING UP SUCH A CENTER" (GENERAL
AUTHORITY OF ARTICLE 235 OF ROME TREATY USED TO CREATE
CENTER) AND ARTICLE 16 WHICH PROVIDES THAT THE EC
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PRIVILEGES AND IMMUNITIES PROTOCOL SHALL APPLY TO THE

CENTER.

2. AT TRIPARTITE MEETING MARCH 5 EMBOFF STATED THAT, AS CENTER WAS STATED IN REGULATION TO BE CREATED BY EC COUNCIL UNDER GENERAL AUTHORITY OF ARTICLE 235 OF TREATY OF ROME RATHER THAN UNDER SPECIFIC POWERS OF EC COUNCIL, ALLIES WOULD BE PRUDENT TO REINFORCE POSITION WITH RELATION TO ACTUAL ESTABLISHMENT OF CENTER IN BERLIN AND ISSUE APPROPRIATE AK DOCUMENT SPECIFICALLY AUTHORIZING ESTABLISHMENT THERE INSTEAD OF "TAKING NOTE" WITHOUT OBJECTION. ADDITIONAL POINT ARGUING FOR THIS COURSE IS THAT EC REGULATION PROVISIONS DIRECTLY SETTING OUT LEGAL RIGHTS AND CAPACITIES OF CENTER IN WSB COULD RAISE LEGITIMATE QUESTION WHETHER EC WOULD NOT BE AFFECTING MATTERS OF STATUS IN WSB. REGARDING PRIVILEGES AND IMMUNITIES, EC PROTOCOL ON SUBJECT WAS PROBABLY INTENDED TO APPLY TO STAFF OF EC COMMISSION AND MEMBER STATE REPRESENTATIVES AND EC COMMISSION DECISION TO HAVE PROTOCOL PRIVILEGES AND IMMUNITIES APPLIED TO "A BODY INDEPENDENT OF THE DEPARTMENTS OF THE COMMISSION" AND ONE FOR THE ESTABLISHMENT OF WHICH "THE TREATY HAS NOT PROVIDED...SPECIFIC POWERS" SUPPORTED NEED FOR AK ACTION TO AUTHORIZE RATHER THAN MERELY TO TAKE NOTE OF THIS NEW DEVELOPMENT. EMBOFF EXPRESSED DOUBT THAT UNPUBLISHED BK/L, RATHER THAN BK/O SETTING OUT FOR PUBLIC CONSUMPTION CONDITIONS FOR ALLIED AUTHORIZATION WOULD BE ADEQUATE TO CLARIFY CONTEXT OF APPLICATION OF EC COMMISSION REGULATION IN WSB.

3. FRENCH REP (BOISSIEU) POINTED OUT THAT UNLIKE EC REGULATIONS FOR EXAMPLE SETTING COMMODITY PRICES FOR ENTIRE EC, THIS REGULATION IN ARTICLE 1 HAD A TARGETED EFFECT, ORDERING THAT SITE OF CENTER IS "BERLIN (WEST)", AND ARTICLE 16, WHILE ALSO HAVING EFFECT IN ENTIRE EC, HAD PARTICULAR RELEVANCE IN WESTERN SECTORS OF BERLIN. HE SAID THAT WHILE EC PROTOCOL ON PRIVILEGES AND IMMUNITIES, BY REFERENCE TO IT IN ARTICLE 28 OF 1965 FUSION TREATY WHICH HAD BEEN EXTENDED TO BERLIN, HAD BEEN APPLIED TO WSB SUBJECT TO ALLIED CONDITIONS, IT REPRESENTED

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SENTED ONLY A FRAMEWORK FOR PRIVILEGES AND IMMUNITIES THAT CENTER PERMANENTLY LOCATED IN WSB WOULD NEED. HE SPECULATED THAT THIS FRAMEWORK WOULD PROBABLY NEED TO BE FLESHED OUT BY FRG AND BERLIN LEGISLATION. WITH RESPECT TO AK ACTION, FRENCH REP STATED THAT ALLIED AUTHORITIES SHOULD ENSURE THAT THIS TYPE OF EC REGULATION, INTENDED TO HAVE DIRECT APPLICATION IN MEMBER STATES, IS SUBMITTED TO THE ALLIES FOR AUTHORIZATION

BEFORE BECOMING APPLICABLE IN WSB. IN RESPONSE TO UK
REP'S CONCERN THAT AK "AUTHORIZATION" MIGHT LEAD
SOVIETS TO ASSUME THAT PAST EC REGULATIONS NOT SO
AUTHORIZED DO NOT APPLY IN WSB, FRENCH REP SUGGESTED
POSSIBILITY OF BK/O WHICH WOULD PROVIDE THAT SUBJECT TO
STATED RESERVATIONS AK HAS NO OBJECTION TO APPLICATION

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 03826

OF EC CENTER REGULATION IN WSB, COUPLED WITH BK/L MODI-
FYING BK/L (57)44 AND STATING THAT AK'S "NO OBJECTION"
AMOUNTS TO AUTHORIZATION OF APPLICATION EC CENTER
REGULATION IN WSB AND REQUIRING THAT HENCEFORTH ALL EC
REGULATIONS INTENDED FOR DIRECT APPLICATION IN EC
MEMBER STATES BE SUBMITTED TO AK FOR AUTHORIZATION
BEFORE THEY CAN ENTER INTO FORCE IN WSB. FRENCH REP
MENTIONED OPEN ENDEDNESS OF ARTICLE 235 OF ROME TREATY
UNDER WHICH EC COUNCIL COULD AUTHORIZE ALMOST ANYTHING,
FOR EXAMPLE A COMMON EC PASSPORT; ALLIES WOULD NOT WISH

TO INTERVENE CONCERNING SUCH REGULATIONS ONLY AFTER
THEIR APPLICATION TO WSB AND UPON RECEIPT OF SOVIET
PROTEST.

4. UK REPS EXPRESSED DISMAY AT PREAMBULAR LANGUAGE OF
EC CENTER REGULATION AND STATED THAT PERHAPS BK/L WOULD
NOT BE ADEQUATE AND THAT A PUBLIC DOCUMENT USABLE VIS-
A-VIS THE SOVIETS MIGHT BE REQUIRED, ALSO FOR PURPOSES
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OF GIVING LEGAL BASIS FOR REGULATION'S APPLICATION TO
WSB. BK/O IN BRITISH VIEW WOULD SET OUT THAT ALLIES HAD
NO OBJECTION TO APPLICATION OF EC REGULATION IN WSB,
SUBJECT TO ALLIED RIGHTS INCLUDING THOSE SET OUT IN AK
LAW NO. 7 WHICH REMAIN UNAFFECTED. THEY STATED THAT A
NEW REGIME FOR EC TREATIES WAS NEEDED BUT ONE THAT WOULD
NOT COMPROMISE THOSE EC TREATIES ALREADY EXTENDED TO
WSB.

5. IT WAS TRIPARTITELY AGREED THAT EMBASSIES WOULD
RECOMMEND THAT BERLIN MISSIONS DRAFT BK/O ALONG ABOVE
LINES AND A BK/L CLARIFYING AND INTERPRETING BK/L (57)
44, THE BK/L TO GIVE ALLIED AUTHORIZATION TO APPLICATION
OF EC CENTER REGULATION IN WSB AND FOR FUTURE SETTING
REQUIREMENT FOR SUBMISSION TO AK OF ALL FURTHER EC
REGULATIONS INTENDED FOR DIRECT APPLICATION IN EC
MEMBER STATES WITHOUT IMPLEMENTING FRG LEGISLATION,
BEFORE SUCH EC REGULATIONS CAN COME INTO FORCE FOR WSB.

6. THE EMBASSY ASSUMES THAT SENAT HAS UNDER TERMS OF
BK/L (57)44 SUBMITTED EC REGULATION TO AK FOR REVIEW
AND ANY NECESSARY ACTION AND THAT REGULATION HAS NOT YET
BEEN PUBLISHED IN BERLIN GESETZ UND VERORDNUNGSBLATT AND
IS THUS NOT YET IN EFFECT IN BERLIN. IF THESE
ASSUMPTIONS ARE CORRECT, THEN FIRST CONTINGENT OF EC
PERSONNEL SCHEDULED TO ARRIVE IN BERLIN ON MARCH 6 WILL
HAVE NO PARTICULAR STATUS AND USBER IS CORRECT THAT
THIS DATE IS NOT A PRESSING DEADLINE.

7. REQUEST DEPARTMENT GUIDANCE. USBER MAY, OF COURSE,
ALSO WISH TO COMMENT.
HILLENBRAND

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